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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

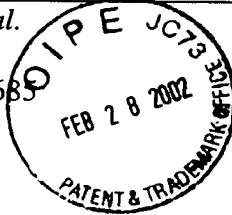
Applicant(s): Graham *et al.*

Application No.: 09/981,685

Filed: 10/17/2001

Title: Adenoviruses for Control of Gene Expression

Attorney Docket No.: ADVEC10IA-C5A



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RESPONSE TO NOTICE TO FILE MISSING PARTS OF APPLICATION
And Preliminary Amendment under 37 C.F.R. 1.115

Assistant Commissioner for Patents
Washington, D.C. 20231
Attention: Box Missing Parts

03/11/2002 BABRAHA1 00000136 09981685

04 FC:115

110.00 0P

Sir:

This is in response to a Notice to File Missing Parts of Application under 37 CFR 1.53(b). Enclosed is a copy of said Notice and the following documents and fees to complete the filing requirements of the above-identified application.

- (X) Copies of originally executed Declaration and Power of Attorney of Inventors, and Subsequent Power of Attorney from parent application serial no: 08/486,549.
- (X) Statutory basic filing fee of \$740.00. (X) Utility () Design
- (X) Additional claim fees of \$504.00 (for 6 independent claims over 3).
- (X) Missing Parts Surcharge of \$130.00.
- (X) Substitute drawings in compliance with 37 C.F.R. 1.84.

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Regarding the omission of Figure 6B that is described in the specification, the Applicant acknowledges that two copies of Figure 6A were in the Applicant's copy of the specification that was filed. This would infer that Figure 6A was not supplied in the copy filed to the Patent Office. Accordingly, the Applicant opts to receive the filing date of 10/17/2001 even if this is without the benefit of Figure 6B in the application as filed.

Related to this issue, the Applicant hereby requests as a Preliminary Amendment under 37 C.F.R. 1.115, that the enclosed Figure 6B is incorporated by reference from U.S. Application Ser. No. 08/486,549, filed June 7, 1995 (now U.S. 6,120,764). Priority to the '549 application is claimed in the present application, so incorporation of Figure 6B from the '549 application is proper. This will avoid the need to delete references to Figure 6B in the present specification.

If a separate filing of a Preliminary Amendment is required to incorporate Figure 6B from the '549 application, please advise the Attorney for Applicant.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope with sufficient postage addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

Date of Deposit: 02/13/2002

Typed Name: Timothy H. Van Dyke

Signature: 

Respectfully submitted,

By 

Timothy H. Van Dyke, Reg. No. 43218

Date: 2/13/2002

Customer No: 29847

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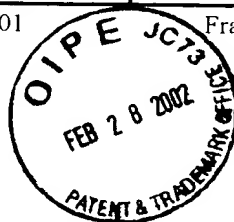
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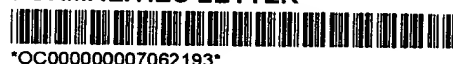
COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/981,685	10/17/2001	Frank L. Graham	ADVEC10IA-C5A

29847
VAN DYKE & ASSOCIATES, P.A.
1630 HILLCREST STREET
ORLANDO, FL 32803



CONFIRMATION NO. 6575
FORMALITIES LETTER



OC00000007062193

Date Mailed: 11/13/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

03/17/2002 BARRAH1 00000136 09981685

01	FE-101	740.00	OP
02	FE-105	130.00	OP
03	FE-102	504.00	OP

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

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An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The statutory basic filing fee is missing.
Applicant must submit \$ 740 to complete the basic filing fee for a non-small entity. If appropriate, applicant may make a written assertion of entitlement to small entity status and pay the small entity filing fee (37 CFR 1.27).
- Total additional claim fee(s) for this application is \$504.
 - \$504 for 6 independent claims over 3 .
- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 1374.

The application is informal since it does not comply with the regulations for the reason(s) indicated below.

The required item(s) identified below must be timely submitted to avoid abandonment:

- Substitute drawings in compliance with 37 CFR 1.84 because:
 - Numbers, letters, and reference characters must measure at least 0.32 cm (1/8 inch) in height.

The following item(s) appear to have been **omitted** from the application:

- Figure(s) **6B** described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and

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\$130.00 petition fee (37 CFR 1.17(h)) with evidence of such deposit **must** be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h)) requesting the later filing date **must** be filed within **TWO MONTHS** of the date of this Notice.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabelled drawing figures, is required. Any drawing changes should be accompanied by a copy of the drawing figures showing the proposed changes in red ink. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

*A copy of this notice **MUST** be returned with the reply.*



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Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

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